

**Amendment No. 8 to SB0349**

**Cooper J  
Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 349\***

**House Bill No. 1781**

by deleting Sections 3 and 4 of the bill as amended by Senate Amendment No. 1 (SA 1117) and by substituting instead the following new sections:

**SECTION 3.**

(a) Tennessee Code Annotated, Section 67-4-2006(b)(1), is amended by adding the following as a new subitem (H) and relettering the remaining subitems accordingly:

(H) Any depreciation permitted as a deduction in computing federal taxable income solely as a result of the provisions of Title 1, Section 101, of the Job Creation and Worker Assistance Act of 2002.

(b) Tennessee Code Annotated, Section 67-4-2006(b)(2), is amended by adding the following as a new subitem (I) and relettering the remaining subitems accordingly:

(I) Any depreciation in excess of that which the taxpayer deducted in computing its federal taxable income that could have been deducted in computing such income if the taxpayer had computed its depreciation under the provisions of Section 168 of the Internal Revenue Code as it existed and applied immediately prior to the passage of Title 1, Section 101, of the Job Creation and Worker Assistance Act of 2002.

**SECTION 4.**

(a) Tennessee Code Annotated, Section 67-4-1004(a), is amended by deleting the language “six and one-half (6½) mills” and by substituting instead the language “ten (10) mills”.

(b) Any wholesale dealers, jobbers, tobacco distributors, and retail dealers having cigarette tax stamps, affixed and unaffixed, in their possession on July 1, 2002,



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shall not be required to pay the additional cigarette tax resulting from the increase in tax rate from six and one-half (6½) mills to ten (10) mills on cigarettes to which such stamps in their possession are or shall be affixed.

(c) Notwithstanding the provisions of any law to the contrary, all increased revenues directly attributable to the rate increase set forth in subsection (a) above shall be paid into the state's general fund and shall be allocated exclusively for general state purposes; and no portion of such increased revenues may be distributed to county or municipal government unless specifically authorized within the general appropriations act.

SECTION 5. Tennessee Code Annotated, Section 67-4-1005, is amended by deleting that section in its entirety and by substituting instead the following language:

§ 67-4-1005.

(a) The rate on all other tobacco products, including, but not limited to, cigars, cheroots, stogies, manufactured tobacco and snuff of all descriptions whether made of tobacco or any substitute therefor, shall be six and six-tenths percent (6.6%) of the wholesale cost price.

(b) Notwithstanding the provisions of any law to the contrary, all increased revenues directly attributable to the rate increase set forth in subsection (a) above shall be paid into the state's general fund and shall be allocated exclusively for general state purposes; and no portion of such increased revenues may be distributed to county or municipal governments unless specifically authorized within the general appropriations act.



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SECTION 6. Tennessee Code Annotated, Section 57-3-302, is amended by deleting that section in its entirety and by substituting instead the following language:

§ 57-3-302.

(a) There is levied upon the sale or distribution by sale or gift a tax of one dollar and twenty-one cents (\$1.21) on each gallon of wine, and a like or proportional rate per gallon on wine sold or distributed in any other container of more or less than one (1) gallon; provided, however, that the provisions of this chapter shall not apply to the sale, gift or distribution of any wine manufactured, sold, given away or distributed and used solely for sacramental purposes.

(b) There is levied upon the sale or distribution by sale or gift a tax of four dollars and forty cents (\$4.40) on each gallon of spirits, and a like or proportional rate per gallon on spirits sold or distributed in any container of more or less than one (1) gallon.

(c) Notwithstanding the provisions of any law to the contrary, all increased revenues directly attributable to the rate increase set forth in subsections (a) and (b) above shall be paid into the state's general fund and shall be allocated exclusively for general state purposes; and no portion of such increased revenues may be distributed to county or municipal governments unless specifically authorized within the general appropriations act.

SECTION 7.

(a) Tennessee Code Annotated, Section 57-5-201(a), is amended by deleting that subsection in its entirety and by substituting instead the following language:

(a)



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(1) Every person, firm, corporation, joint-stock company, syndicate or association in this state storing, selling, distributing, or manufacturing such beer or other beverages as are described in this chapter shall pay a special privilege tax, in addition to all other taxes, in an amount equal to four dollars and twenty-nine cents (\$4.29) per barrel of thirty-one (31) liquid gallons stored, sold, distributed by gift or sale or manufactured in this state. The tax upon barrels containing more or less than thirty-one (31) gallons shall be at a proportionate rate. Beer or other such beverage manufactured in Tennessee and thereafter exported for sale, distribution or gift, or dispensed gratuitously and consumed on the premises, shall not be included in the measure of the tax liability hereby provided for. The commissioner of revenue is authorized to promulgate rules and regulations for the purpose of securing the exemption hereby given and for the purpose of preventing such exemption from being claimed in the case of beer sold, distributed or given away in Tennessee. The burden shall be on the manufacturer claiming exemption to establish to the satisfaction of the collection officers that the beverage manufactured in Tennessee is exempt under this subsection.

(2) Notwithstanding the provisions of any law to the contrary, all increased revenues directly attributable to the rate increase set forth in subdivision (a)(1) above shall be paid into the state's general fund and shall be allocated exclusively for general state purposes; and no portion



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of such increased revenues may be distributed to county or municipal governments unless specifically authorized within the general appropriations act.

(b) Tennessee Code Annotated, Section 57-6-104(c)(5), is amended by inserting the language "or the state privilege tax levied in § 57-5-201" immediately following the words "excise tax" in the first sentence.

(c) Tennessee Code Annotated, Section 57-6-103(a), is amended by designating the existing language as subdivision (1) and by adding the following new subdivision:

(2) Notwithstanding any provision of subdivision (1) or any other law to the contrary, the seventeen percent (17%) tax levied in subdivision (1) shall not be applied to the increase in the special privilege tax on beer from three dollars and ninety cents (\$3.90) to four dollars and twenty-nine cents (\$4.29) provided in § 57-5-201, or to any increase in the wholesale price of beer resulting from such increase in the special privilege tax on beer.

**SECTION 8.**

(a)

(1) Tennessee Code Annotated, Section 67-6-103(f), is amended by deleting the language "six percent (6%) in accordance with the provisions of part 2 of this chapter as well as pursuant to the local option revenue act in part 7 of this chapter, and be distributed in accordance with the provisions of § 67-6-103." and by substituting instead "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202 as well as pursuant to the local



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option revenue act in part 7 of this chapter, and be distributed in accordance with the provisions of § 67-6-103 and this act."

(2) Tennessee Code Annotated, Section 67-6-202(a), is amended by deleting the language "at the rate of six percent (6%) of" and by substituting instead the language "on" and by adding at the end of the subsection the language:

The tax shall be levied at the rate of seven percent (7%). There is levied an additional tax at the rate of two and three-quarters percent (2.75%) on the amount in excess of one thousand six hundred dollars (\$1,600), but less than or equal to three thousand two hundred dollars (\$3,200), on the sale or use of any single article of personal property as defined in § 67-6-702(d). The tax levied at the rate of two and three-quarters percent (2.75%) on the amount in excess of one thousand six hundred dollars (\$1,600), but less than or equal to three thousand two hundred dollars (\$3,200), on the sale or use of any single article of personal property shall be in addition to all other taxes and shall be a state tax for state purposes only. No county or municipality or taxing district shall have the power to levy any tax on the amount in excess of one thousand six hundred dollars (\$1,600), but less than or equal to three thousand two hundred dollars (\$3,200), on the sale or use of any single article of personal property.

(3) Tennessee Code Annotated, Section 67-6-203, is amended by deleting the language "six percent (6%)" in subsection (a) and by substituting



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instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202".

(4) Tennessee Code Annotated, Section 67-6-204, is amended by deleting the language "six percent (6%)" wherever it appears in subsections (a) and (c) and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202".

(5) Tennessee Code Annotated, Section 67-6-205, is amended by deleting the language "six percent (6%)" in subsection (a) and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202".

(6) Notwithstanding the provisions of subdivisions (a)(1) through (5) of this section to the contrary, sales to or use by a contractor, subcontractor, or material vendor of tangible personal property, including rentals thereof and labor or services performed in the fabrication, manufacture, delivery, or installation of such tangible personal property when such property is sold or used solely in performance of a lump sum or unit price construction contract entered into prior to June 15, 2002, or awarded by the state or a political subdivision pursuant to a bid opening which occurred prior to June 15, 2002, shall be subject to tax at the state rate of six percent (6%) plus the local option sales tax rate in effect on June 15, 2002, in the county or municipality in which the property is sold or used. In addition, sales to or use by a subcontractor of tangible personal property, including rentals thereof and labor or services performed in the fabrication,



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manufacture, delivery, or installation of such tangible personal property when such property is sold or used solely in performance of a written subcontract entered into prior to September 1, 2002, if such subcontract is made pursuant to a general contract qualifying for the reduced rate of tax as set out above, shall be subject to tax at the rate of six percent (6%) plus the local option sales tax rate in effect on June 15, 2002, in the county or municipality in which the property is sold or used. Any vendor making such sales to any such contractor or subcontractor shall collect tax at the state rate levied in subsections (a)(1) through (5) of this section plus the local option sales tax rate in the county or municipality in which the property is sold or used. Any such contractor paying tax at the state rate levied in subsections (a)(1) through (5) of this section plus the local option sales tax rate may then file a claim with the commissioner of revenue for a refund of any such tax paid to any of the contractor's vendors at a rate in excess of six percent (6%) plus the local option sales tax rate in effect on June 15, 2002, in the county or municipality in which the property is sold or used. For purposes of this subsection the term "lump sum or unit price construction contract" means a written contract for the construction of improvements to real property under which the amount payable to the contractor, subcontractor or material vendor is fixed without regard to the costs incurred in the performance of the contract. The provisions of this paragraph shall not be construed to increase the rate of tax imposed pursuant to the provisions of Tennessee Code Annotated, Section 67-6-206.



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(b) Notwithstanding the provisions of § 67-6-103(a)(3) or any other law to the contrary, all increased revenues directly attributable to the rate increases set forth in subsection (a) above shall be paid into the state's general fund and shall be allocated exclusively for general state purposes; and no portion of such increased revenues may be distributed to county or municipal governments unless specifically authorized by the general appropriations act.

SECTION 9. Tennessee Code Annotated, Section 67-6-206(b)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(b)(1) Tax at the rate of two and one-half percent (2.5%) is likewise imposed with respect to water when sold to or used by manufacturers. Tax at the rate of three percent (3%) shall be imposed with respect to gas, electricity, fuel oil, coal and other energy fuels when sold to or used by manufacturers.

SECTION 10. Tennessee Code Annotated, Section 67-6-219(a), is amended by deleting the language "three and seventy-five hundredths percent (3.75%)" and by substituting instead the language "five and one-quarter percent (5.25%)".

SECTION 11.

(a) Tennessee Code Annotated, Section 67-4-506, is amended by deleting the section in its entirety.

(b) Tennessee Code Annotated, Section 67-6-102(24), is amended by adding the following language as a new subdivision (l):

(l) "Retail sale" or "sale at retail" includes sales by which merchandise is sold or delivered to the user through the use of a vending machine.



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SECTION 12. Tennessee Code Annotated, Section 67-6-329(a), is amended by deleting subdivision (21) in its entirety and by renumbering subsequent subsections accordingly.

SECTION 13. The commissioner of revenue is authorized to promulgate rules and regulations in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5, to implement and administer the provisions of this act. Such rules, to the extent deemed necessary by the commissioner for timely implementation of this act, shall include public necessity and emergency rules.

SECTION 14. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

**SECTION 15.**

(a) Section 3 of this act shall take effect upon becoming law and shall apply to excise tax returns filed for tax years ending on or after June 30, 2002, the public welfare requiring it.

(b) Sections 4 through 12 of this act shall take effect July 1, 2002, the public welfare requiring it.

(c) All other sections of this act shall take effect upon becoming a law, the public welfare requiring it.